

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

MARCUS D. GRAVES,)
Plaintiff,)
VS.) No. 18-1200-JDT-cgc
OFFICER MAYS, ET AL.,)
Defendants.)

**ORDER DIRECTING PLAINTIFF TO SUBMIT A SIGNED COPY
OF THE COMPLAINT AND ALSO DIRECTING PLAINTIFF TO
COMPLY WITH 28 U.S.C. § 1915(a)(2) OR PAY THE \$400 CIVIL FILING FEE**

On October 9, 2018, Plaintiff Marcus D. Graves, who is incarcerated at the Madison County Criminal Justice Complex in Jackson, Tennessee, filed a *pro se* complaint pursuant to 42 U.S.C. § 1983 and a motion to proceed *in forma pauperis*. (ECF Nos. 1 & 2.) However, Plaintiff neglected to sign his complaint. Pursuant to Federal Rule of Civil Procedure 11(a), every pleading, motion or other paper filed with the Court must be signed either by a party's attorney or by the party himself if he is unrepresented. Therefore, Plaintiff is ORDERED to submit to the Court, within 30 days after the date of this order, a signed copy of his complaint. Plaintiff is warned that if he does not do so in a timely manner the Court will dismiss this action without further notice for failure to prosecute.

Under the Prison Litigation Reform Act (PLRA), 28 U.S.C. §§ 1915(a)-(b), a prisoner bringing a civil action must pay the filing fee required by 28 U.S.C. § 1914(a).

Although the obligation to pay the fee accrues at the moment the case is filed, *see McGore v. Wrigglesworth*, 114 F.3d 601, 605 (6th Cir. 1997), *partially overruled on other grounds by LaFountain v. Harry*, 716 F.3d 944, 951 (6th Cir. 2013), the PLRA provides the prisoner the opportunity to make a “down payment” of a partial filing fee and pay the remainder in installments. *Id.* § 1915(b)(2). However, in order to take advantage of the installment procedures, the prisoner must properly complete and submit to the district court, along with the complaint, an *in forma pauperis* affidavit and a certified copy of his trust account statement for the six months immediately preceding the filing of the complaint. *Id.* § 1915(a)(2).

In this case, the affidavit submitted by Plaintiff is not accompanied by a certified copy of his trust account statement. Accordingly, Plaintiff also is ORDERED to submit, within 30 days after the date of this order, either the entire \$400 civil filing fee¹ or a certified copy of his trust account statement for the last six months.² If Plaintiff needs additional time to file the required document, he may request one 30-day extension of time from this Court. *McGore*, 114 F.3d at 605.

If Plaintiff timely submits the necessary document and the Court finds that he is indeed indigent, the Court will grant leave to proceed *in forma pauperis* and assess a filing

¹ The civil filing fee is \$350. *See* 28 U.S.C. § 1914(a). The Schedule of Fees set out following the statute also requires the Clerk to collect an additional administrative fee of \$50 for filing any civil case. That additional fee will not apply if Plaintiff ultimately is granted leave to proceed *in forma pauperis*.

² Plaintiff does not need to submit another *in forma pauperis* affidavit.

fee of \$350 in accordance with the installment procedures of 28 U.S.C. § 1915(b). However, if Plaintiff fails to submit the required document in a timely manner, the Court will deny leave to proceed *in forma pauperis*, assess the entire \$400 filing fee from his trust account without regard to the installment payment procedures, and dismiss the action without further notice pursuant to Federal Rule of Civil Procedure 41(b), for failure to prosecute. *McGore*, 114 F.3d at 605.³

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE

³ Even a voluntary dismissal by Plaintiff will not eliminate the obligation to pay the filing fee. *McGore*, 114 F.3d at 607; *see also In re Alea*, 286 F.3d 378, 381 (6th Cir. 2002).